

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

SADIQ HAFIZ ABDUL-SALIM #330282,
a/k/a CHESTER L. WALLACE,

Plaintiff,

v.

No.: 3:12-cv-31

DARREN SETTLES, et al.,

Defendants.

MEMORANDUM

This *pro se* prisoner's civil rights complaint under 42 U.S.C. § 1983 was dismissed with prejudice based upon plaintiff's failure to prosecute and plaintiff appealed. The Sixth Circuit found that the case should not have been dismissed with prejudice, but rather the court should have considered a lesser sanction such as dismissal without prejudice. The Sixth Circuit did not disturb the conclusion that the case should be dismissed for failure to prosecute. The Sixth Circuit then vacated the order of dismissal with prejudice and remanded for further proceedings. Accordingly, for the reasons stated in the court's prior Memorandum, this action will be **DISMISSED WITHOUT PREJUDICE** for failure to prosecute. The court will **CERTIFY** that any appeal from this action would not be taken in

good faith and would be totally frivolous. *See* Rule 24 of the Federal Rules of Appellate Procedure. In addition, plaintiff will be assessed the full filing fee of \$350.00 as set forth in the court's prior Memorandum.

AN APPROPRIATE ORDER WILL ENTER.

s/ Leon Jordan
United States District Judge